

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

MONSANTO COMPANY and
MONSANTO TECHNOLOGY LLC,

Plaintiffs,

vs.

E.I. DU PONT DE NEMOURS AND
COMPANY and
PIONEER HI-BRED INTERNATIONAL,
INC.,

Defendants.

Case No. 4:09-cv-00686-ERW

**MOTION FOR LEAVE TO FILE UN-REDACTED
BRIEF AND EXHIBITS UNDER SEAL**

Plaintiffs, Monsanto Company and Monsanto Technology LLC (collectively “Monsanto”), respectfully move the Court for an order allowing Monsanto to file a complete, un-redacted copy of Monsanto’s Memorandum of Points and Authorities in Support of Monsanto’s Motion for Sanctions for Discovery Misconduct, and Exhibits A, A-1, B and C to the Declaration of Stephen R. Smerek, under seal. As grounds for this relief, Monsanto states:

1. This action is for patent infringement, breach of contract, unjust enrichment, and injunctive relief against Defendants E.I. du Pont de Nemours and Company (“DuPont”) and Pioneer Hi-Bred International, Inc. (“Pioneer”) involving United States Patent No. U.S. RE 39,247E (the “‘247 Patent”) and Monsanto’s grant of licenses to Monsanto’s patented and proprietary soybean technology and corn technology pursuant to two licenses between Monsanto and Pioneer entered into on April 1, 2002: (1) an Amended and Restated Roundup Ready Soybean License Agreement (Exhibit B to the Complaint) and (2) a Roundup Ready Corn

License Agreement (Exhibit C to the Complaint) (hereafter referred to collectively as the “License Agreements”). The specific terms of the License Agreements are subject to confidentiality provisions contained within the underlying licenses. See Exs. B & C to Complaint.

2. This Court has previously allowed the parties to file various un-redacted pleadings and confidential documents under seal. See e.g., Docket Text Orders entered May 20, 2009 and June 17, 2009. Further, the protective order entered herein provides for the filing of confidential information and documents under seal.

3. Portions of Monsanto’s opposition quote from and/or paraphrase from deposition testimony that Defendants have designated as Restricted Confidential pursuant to the protective order, and Exhibits A, A-1, B and C to the Declaration of Stephen R. Smerek Monsanto’s memorandum are copies or excerpts of the deposition transcripts. Therefore, the un-redacted memorandum and the deposition transcripts should be sealed. Monsanto has also filed a redacted copy of Monsanto’s memorandum in the public record.

WHEREFORE, Monsanto respectfully requests the Court enter an order allowing Monsanto to file a complete, un-redacted copy of Monsanto’s Memorandum of Points and Authorities in Support of Monsanto’s Motion for Sanctions for Discovery Misconduct, and Exhibits A, A-1, B and C to the Declaration of Stephen R. Smerek, under seal.

Dated: January 12, 2011

Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the 12th day of January, 2011, the foregoing was filed electronically with the Clerk of the Court for the United States District Court for the Eastern District of Missouri, Eastern Division, and was served by operation of that Court's electronic filing system, upon the following:

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